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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,125	08/25/2003	Steve Grove	2043.102US1	3210

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
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MINNEAPOLIS, MN 55402

EXAMINER

TRUONG, CAM Y T

ART UNIT	PAPER NUMBER
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2169

NOTIFICATION DATE	DELIVERY MODE
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02/11/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/648,125

Applicant(s)

GROVE ET AL.

Examiner

Cam Y T. Truong

Art Unit

2169

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-7,9-19,21-29,31-36 and 39-41.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Cam Y Truong/
Primary Examiner, Art Unit 2169

Continuation of 11. does NOT place the application in condition for allowance because: Adding the limitation "seller" in claims 2, 6, 14, 18, 24 and 28 require further consideration and/or search. Thus, the amendment filed on 2/4/2009 is not entered.

Applicant's argued that Boyden does not teach "generating a listing, comprising listing identification data from a seller; receiving listing identification data from a seller, the listing identification data capable of being used to identify a good or service;

searching a database of listing data using the listing identification data to locate a plurality of similar listings posted within a network-based commerce system;

receiving an indication from the seller selecting a selected listing from the plurality of similar listings;

generating a proposed listing to present to the seller, the proposed listing including listing data from the selected similar listing;

allowing the seller to modify the listing data of the proposed listing to create a listing; and posting the listing in a database of the network-based commerce system, the listing, once posted, representing an offering of the good or service for sale. .

Examiner respectfully disagrees.

As to claim 1, Boyden teaches a method of generating a listing in a network-based commerce system (generating data in fields 218-220 in a network based commerce system, page 4, col. Right, lines 17-23; page 3, paragraph [0024], lines 4-10), the method including:

"receiving listing identification data from a seller, the listing identification data capable of being used to identify a good or a service" as the input section 202 can include a search tool 204 having an input fields 205 and a button 206 to search for vehicles in the list 201 by Vehicle Identification Number (VIN). Fig 2B shows an example of a vehicle work sheet page 200b to modify data for a vehicle that was already on the list 201 of the work list page 200a. The vehicle data includes 213 and 214. The above information shows that to display the vehicle data as shown in fig. 2B, the system receives VIN from a user and retrieves the a specific vehicle based on the inputted VIN by the user (fig. 2A, page 4, col. Left, lines 2-7; page 4, paragraph [0032], lines 1-9, paragraph 0013);

"searching a database of reference listing data using the listing identification data to locate a plurality of similar listings posted within a network-based commerce system" as the input section 202 can include a search tool 204 having an input fields 205 and a button 206 to search for vehicles in the list 201 by Vehicle Identification Number (VIN). Fig 2G shows various seller report pages 200g-200j that are generated by the server and sent to the seller system. The above information shows that system searches the list 201 as a database of reference listing data to display or locate the seller report pages on an interface for viewing. The report includes items about vehicles. The items are not similar listings (figs. 2A & 2B, page 4, col. Left, lines 2-7; page 4, paragraph [0032], lines 1-9, paragraph [0036], lines 1-3); "generating a proposed listing to present to the seller, the proposed listing including listing data from the selected similar listing" as displaying a page includes data 213 and 214. The page is represented as a proposed listing. The proposed listing does not include the similar listing (fig. 2B, page 4, paragraph [0032], lines 1-3, paragraph 0013);

"allowing the seller to modify the listing data of the proposed listing to create a list" as prior to posting or sending the data entered in fields 218-220 to a database in the auction server system, the system allows the user to edit the vehicle data of the page 200b in fig. 2B by clicking on either links such as 1. Modify vehicle configuration, 2. Modify condition report, 3. Update mileage & pricing (figs. 2B & 2C, page 4, paragraph [0032], lines 1-21, col. Right, lines 17-23, paragraph 0013);

resulting in the listing as after the user to edit vehicle data and click on update icon, the system indicates Mileage & pricing of the vehicle data are updated (fig. 2C page 4, paragraph [0033], lines 1-10);

"posting the listing in a database of the network-based commerce system" as sending the data entered in the fields 218-220 to a data-record for the vehicle in the auction server system. More specifically, the seller system sends the data entered in the fields to a database in the auction server (page 4, col. Right, lines 17-23);

"wherein the listing, once posted" as the seller sends the data entered in the fields to a data-record for the vehicle in the auction server system. Then the auction server system provides a report 300e to a buyer system. The report 300e includes data about the vehicle from the data-record in the auction server database (abstract, fig. 3E, page 4, col. Right, lines 17-23; page 6, col. Left, lines 1-10);

"receiving an indication from the seller selecting a selected listing" as by selecting the link for the 1999 saab 9-5SE shown in the list 305, the buyer system send a request to the auction server system to display the detail page 300c;

"the proposed listing including listing data" as displaying data including the link on page 300c (paragraph 0043).

Boyden does not explicitly teach the claimed limitation "a plurality of similar listings; from the plurality of similar listings; from the selected similar listing; representing an offering of the good or service for sale".

Raines teaches displaying a plurality of similar cars and representing an offering of car for sale (figs. 6, 12, 15; col. 7, lines 50-67).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Raines's teaching of displaying a plurality of similar cars and representing an offering of car for sale to Boyden's system in order to allow a user select a particular similar item listing so that the service can retrieve another similar item lists based on the selected similar list and further to predict the interests of users based on the user's indication so that the system provide a recommendation of similar items based on the interests of users recited in Applicants' claims. As discussed above, the combination of Boyden and Raines support prima facie case of obviousness and teach claimed invention..